

Amend Section 8106 of the Motor Vehicle Fuel Tax Law to clarify that a supplier is allowed to take a credit, in lieu of a refund of the tax, on a supplier's tax return for tax-paid motor vehicle fuel removed, entered, or sold by the supplier, when otherwise entitled to claim a refund, and repeal Sections 8106.1, 8106.5, and 8106.8 so that all of a supplier's credits in lieu of refund are provided for in Section 8106.

Source: Fuel Taxes Division

Existing Law

Under existing law, Revenue and Taxation Code Section 8101 allows a supplier to claim a refund of the tax on motor vehicle fuel when the supplier uses the fuel off highway, exports the fuel, sells the fuel to the armed forces of the United States, sells the fuel to a foreign consulate officer or employee, or delivers tax-paid fuel to a terminal and removes the fuel from the terminal. A supplier entitled to a refund under Section 8101 may take a credit *in lieu of a refund* on his or her tax return, except when fuel is sold to the armed forces of the United States. Credits in lieu of refund are allowed under Sections 8106 (when purchased for use off highway), 8106.1 (when sold to a foreign consulate officer or employee), 8106.5 (when exported), and 8106.8 (when tax-paid fuel is delivered to a terminal and removed from the terminal). The difference between how the "refund" section and the "credit in lieu of refund" sections are structured has caused some confusion regarding whether a supplier should file a claim for refund or take a credit for taxes on motor vehicle fuel sold to the armed forces of the United States.

This Proposal

This proposal would amend Section 8106 to clarify that a supplier may take a credit in lieu of a refund on his or her tax return for any tax-paid motor vehicle fuel exported, removed, sold, or used by the supplier if the supplier would be entitled to a refund under Section 8101.

Section 8106 of the Revenue and Taxation Code is amended to read:

8106. In lieu of the collection and refund of the tax on tax-paid motor vehicle fuel exported, removed, sold or used by a supplier in the a manner as that would entitle a ~~purchaser~~ the supplier to claim a refund under Section 8101 ~~this article~~, credit may be given the supplier upon the supplier's tax return, and the determination of the amount of tax shall be determined in accordance with such rules and regulations as the board may prescribe.

Section 8106.1 of the Revenue and Taxation Code is repealed.

~~8106.1. In lieu of the collection and refund of the tax on motor vehicle fuel sold to a consulate officer or consulate employee of a foreign government by a licensed supplier who would be entitled to claim a refund under subdivision (e) of Section 8101, a credit may be given the supplier upon the supplier's tax return and the determination of the amount of tax shall be in accordance with any rules and regulations which the board may prescribe.~~

Section 8106.5 of the Revenue and Taxation Code is repealed.

~~8106.5. In lieu of the collection and refund of the tax on motor vehicle fuel exported by a licensed supplier for use outside the state in such a manner as would entitle a supplier to claim a refund under subdivision (b) of Section 8101, credit may be given the supplier upon the supplier's tax return and the determination of the amount of tax in accordance with such rules and regulations as the board may prescribe.~~

Section 8106.8 of the Revenue and Taxation Code is repealed.

~~8106.8. In lieu of the collection and refund of the tax on tax paid motor vehicle fuel removed at a terminal rack by a supplier who is entitled to claim a refund of tax under subdivision (f) or (g) of Section 8101, credit may be given the supplier upon the supplier's tax return. The amount of tax and refund shall be determined in accordance with such rules and regulations as the board may prescribe.~~